

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

PETER VLAMING,)	Civil Action No. 3:19-cv-00773
)	
Plaintiff,)	Hon. John A. Gibney Jr.
)	
v.)	
)	
WEST POINT SCHOOL BOARD; LAURA)	
ABEL, in her official capacity as Division)	
Superintendent; JONATHAN HOCHMAN, in)	
his official capacity as Principal of West Point)	
High School; and SUZANNE AUNSPACH, or)	
her successor in office, in her official capacity as)	
Assistant Principal of West Point High School,)	
)	
Defendants.)	

**JOHN DOE’S MOTION FOR LEAVE TO FILE NOTICE OF SUPPLEMENTAL
AUTHORITY**

John Doe (hereinafter “John”) hereby moves the Court for leave to file a Notice of Supplemental Authority regarding the Motion to Stay Proceedings by Plaintiff Peter Vlaming (“Plaintiff”) and the Motions to Intervene and Proceed Pseudonymously filed by John. In support thereof, John respectfully shows the following:

BRIEF IN SUPPORT OF DOE’S MOTION FOR LEAVE

I. Relevant Background

Plaintiff filed this action on September 27, 2019 in the Circuit Court for the County of King William, Virginia. *See* Complaint, ECF No. 1-2. Defendants removed the case to the Eastern District of Virginia, Richmond Division on October 22, 2019. *See* Notice of Removal, ECF No. 1-2. Plaintiff filed a Motion to Remand the case to the state court on November 21, 2019. *See* Motion to Remand, ECF No. 5. John filed a Motion to Intervene and a Motion for Leave to

Proceed Pseudonymously on November 25, 2019. Mot. to Intervene, ECF No. 7 and Mot. for Leave to Proceed Pseudonymously, ECF No. 9. On November 26, 2020, Plaintiff filed a Motion to Stay consideration of the Motion to Intervene and Motion for Leave to Proceed Pseudonymously until this Court resolves the jurisdictional question. Mot. to Stay, ECF No. 15. On June 15, 2020, the Supreme Court issued an opinion holding that an employer violates Title VII, which makes it illegal to discriminate against an individual on the basis of sex, by firing an individual for their sexual orientation or gender identity. *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020) (hereinafter “the Supplemental Authority”). The Supplemental Authority is pertinent to John’s pending request to use a pseudonym that matches his gender identity, ECF No. 9, and to John’s pending request to intervene to represent his own legal interests, ECF No. 7. For these reasons, John requests that this Court grant leave to file a Notice of Supplemental Authority.

II. Good Cause Exists to Grant Leave.

Under Local Rule 7(F), after the reply brief is filed, “[n]o further briefs or written communications may be filed without first obtaining leave of Court.” The Court uses a “good cause” standard when evaluating requests for further communication. *See e.g., Hughes v. Wells Fargo Bank*, No. 114CV516GBLTRJ, 2014 WL 12527212, at *8 (E.D. Va. Dec. 2, 2014) (finding plaintiff failed to allege good cause regarding necessity of supplemental briefing). “[T]he question of what constitutes ‘good cause’ necessarily is determined on a case-by-case basis within the discretion of the district court” *Scott v. Maryland State Dep’t of Labor*, 673 F. App’x 299, 304 (4th Cir. 2016) (discussing good cause standard for extension of service of process under Fed. R. Civ. P. 4(m)). Federal courts in Virginia have recognized that “the purpose for filing a notice of supplemental authority is to alert the court to case law that was unavailable to the parties when

making a previous filing, but is relevant to the court's consideration on the matter.” *Ashghari-Kamrani v. U.S. Auto. Ass’n*, No. 215CV478, 2016 WL 8253884, at *1 (E.D. Va. March 18, 2016).

Good cause exists in this case to grant leave because the Supreme Court issued a significant ruling on the protections afforded to transgender persons under federal law. The Supplemental Authority in this case was not decided until June 15, 2020, after each of the pending motions was fully briefed. *See* Mot. to Intervene, ECF No. 7, Mot. for Leave to Proceed Pseudonymously, ECF No. 9. The Supplemental Authority is pertinent to John’s argument that he should be permitted to proceed in this action under the pseudonym “John” because the Supreme Court utilized the preferred pronouns of a transgender petitioner, the same relief John requests here. Furthermore, the Supplemental Authority supports John’s argument that intervention is appropriate because of the divergence between his legal interests and those of Defendants. The Supplemental Authority will therefore aid the Court in its determination of John’s pending motions to intervene and to proceed pseudonymously. The Supplemental Authority was issued after John filed his motions, and John has accordingly taken prompt steps to make the Court aware of its existence.

CONCLUSION

For the aforementioned reasons, John Doe respectfully requests that this Court grant him leave to file a Notice of Supplemental Authority.

Dated: July 21, 2020

Respectfully submitted,

LOCKE & QUINN

NATIONAL CENTER FOR LESBIAN
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CERTIFICATE OF SERVICE

I hereby certify on the 21st day of July, 2020, I electronically filed the foregoing John Doe's Motion for Leave to File Supplemental Authority, using the Court's CM/ECF system, which will send a notification of such filing (NEF) to all attorneys of record:

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